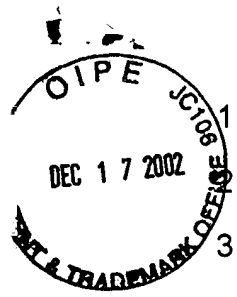


1761



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

3 In re application of)
4 OTTO H. FISCHER ET AL)
5 Serial No. 09/879,631)
6 Filed: June 11, 2001)
7 For: APPARATUS AND METHOD)
8 FOR PACKAGING NON-)
9 FLOWING PRODUCTS)
INTO POUCHES)

Group Art Unit: 1761
December 11, 2002

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Sir:

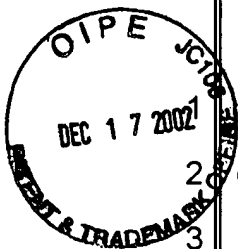
The above-identified applicants hereby submit comments regarding pertinent art of which they are presently aware. The prior art submitted herewith was cited in a corresponding PCT application. A copy of the two-page Search Report dated September 19, 2002 is submitted herewith wherein five separate references were cited, each of those references considered to be either Category X or Category Y references. If a fee is required, please charge our deposit account No. 05-0420. Our comments regarding each of those references are set forth below.

1. The Burton U.S. patent 4,326,568 teaches a pouch filling apparatus for use in loading chicken chunks, for example, into separate pouches. This patent requires a separate filling apparatus 31 (see Fig. 1) wherein each of the containers 30 (Fig. 4) is charged or filled with a specified amount of product. The product contained in each individual container 30 is forced into the pouches through bottom trap doors 38 (Figs. 4 and 5). There is no teaching

1 or suggestion in Burton of the use of a movable metering shoe as part of a forming chamber
2 wherein a product cake is compressively formed. The use of the movable metering shoe is
3 a key aspect of the present invention. The use of the metering shoe as an integral part of the
4 forming chamber allows rapid adjustment to control the packing weight within very close
5 tolerances. The present invention essentially eliminates the presence of a separate filling
6 apparatus 31 as required by Burton. Furthermore, the present invention allows for easily
7 changing the weight of the product cake compressively formed in the forming chamber.

8 2. The Focke U.S. patent 5,174,088 teaches a bag filling apparatus for chewing
9 tobacco substitute. This apparatus teaches a relatively straightforward gravity feed
10 mechanism shown best in Fig. 5. The product is gravity fed into a forming chamber of a rotary
11 turret. The rotary turret then compresses the tobacco substitute before it is discharged into
12 the bags. This prior art reference does not teach or suggest the use of significant
13 compressive forces to initially fill the forming chambers. The use of compressive forces is
14 particularly important when dealing with sticky, non-flowing product such as tuna. Further-
15 more, the Focke prior art does not teach or suggest the use of an adjustable metering shoe
16 which forms one wall of the forming chamber.

17 3. The Shaw U.S. patent 4,052,836 teaches a gravity feed from hopper 54 (Fig. 4)
18 into a forming chamber above an adjacent surface of piston 82. Shaw does teach the use of
19 a rotatable eccentric 100 which is capable of adjusting the stroke of piston 82. However, the
20 eccentric must be manually adjusted with a separate adjustment required for each of the
21 separate pistons. Shaw is used primarily for foods containing significant amounts of water.
22 Drain holes 130 are provided to drain off some excess water. However, Shaw relies
23 exclusively on gravity to feed product into each forming chamber. The present invention
24 differs significantly from Shaw by using significant compressive forces to form the product
25 cake.



4. The Carruthers patent 3,123,958 does teach a device for packing tuna. However, it does not teach the use of a metering shoe as one wall of the forming chamber. Furthermore, this patent does not teach or suggest the feeding of tuna into pouches. Rather, this prior art reference teaches only the packing of tuna into cans.

5. The Owensby U.S. patent 5,483,784 teaches a method and apparatus for loading a meat product into a thermoplastic bag. That prior art mechanism is shown best in Figs. 1A-1F. The patent is concerned primarily with loading the meat product into the bag in such a way as to avoid application of any product to the area of the bag which is sealed. As shown in Figs. 1B and 1E, the sealing portion of the bag is held on the opposite side of horn 1 as the filling process occurs. There is no teaching or suggestion in this patent of the use of compressive forces to form a product cake in a forming chamber. Furthermore, there is no teaching or suggestion of the use of an adjustable metering shoe forming one wall of the product cake forming chamber.

Respectfully submitted,

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